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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/262,751 03/04/99 SMITH

R TN-1444-A

EXAMINER

TM02/1016

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PERSINO, R

ART UNIT

PAPER NUMBER

2681

DATE MAILED:

10/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.
09/262,751

Applicant(s)

Smith

Examiner

Raymond B. Persino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Sep 18, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See "EXAMINER'S STATEMENT"
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 17-20 and 43-45
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
11. ☒ Other: See PTO-892

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EXAMINER'S STATEMENT

1. Initially the examiner would like to point out that the application contains claims 1-16 and 21-42 drawn to an invention nonelected with traverse in Paper No. 5. A complete reply to the final rejection must have included cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. The applicant was previously notified of the requirement in Paper No. 9, but failed to comply. Thus, the applicant's reply to the final rejection is incomplete. Further the examiner would like to respond to the applicant's arguments regarding claims 17 and 43.

2. To clear up any possible confusion the examiner will attempt to more clearly describe the combination and motivation to combine. For the housing, charger and radio circuit the examiner relies on Azzouni. However, with respect to the battery, Azzouni states that a rechargeable battery may be used. However the reference is silent as to the possibility of removing the battery. Rechargeable batteries, while they may be reused many times, do have a limited life span. This limited life span is generally much shorter than the mechanical or electrical components of a charger, radio or other device. For example, one can venture into an electronics store and find for sale replacement rechargeable batteries for both cellular and cordless telephones. This is also true for power tools and cars. This gives one the motivation to allow the rechargeable battery to be removable for the purpose of replacement. The examiner previously stated that the device would be rendered completely useless if the rechargeable battery goes bad, but the applicant

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correctly pointed out that it would still be usable with the cord. Nevertheless the examiner believes that having to use a device with a corded power connection, that could otherwise be used without a corded power connection, significantly reduces both the capability and usefulness of the device. Thus it is reasserted that there is motivation to allow the rechargeable battery to be removable for the purpose of replacement. However it is another step to say that the rechargeable battery be removable for the purpose of using in another device, let alone a power tool. Further it is another step to use a power tool battery for something other than a power tool. In summation three concepts are missing. First, that the rechargeable battery is removable. Second, that the battery be a power tool battery. Third, that the battery once removed be used/usable in a power tool. However, Hattori teaches the missing elements. Hattori teaches a device that receives and retains the battery of a power tool for the purpose of supplying power to a myriad of devices. From Hattori, the examiner utilizes two concepts to modify the teaching of Azzouni. The first, is a means to receive, retain and remove a power tool battery in a housing. The second, is utilizing a power tool battery for a device other than a power tool. Thus the combination would be the device of Azzouni, wherein the battery is a power tool battery. Further, the housing of Azzouni would include a means to receive, retain and remove the power tool battery. Since Azzouni teaches for the charging circuit and the battery to be within the housing, placing the battery within the housing is placing the battery within the charger. Lastly, the combination itself inherently teaches of using/being able to use the battery in a power tool. For the battery can be charged in

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the housing and then removed and used in a power tool since it is a power tool battery. The applicant argued that the housing of Hattori was not a charger. The examiner would like to point out that in the combination the charging circuit and the battery to be within the housing as per Azzouni. Thus placing the battery within the housing is placing the battery within the charger.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smith (US 6,215,276 B1) discloses a portable self contained battery charger and radio.

Artis, Jr. (US 5,404,419 A) discloses a wall-mounted cordless dryer for the hands with battery charging circuit, AM/FM radio, and vertical positioning means.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Raymond Persino whose telephone number is (703) 308-7528. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Box AF

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or faxed to:

(703) 872-9314, (for formal communications intended for entry please label "EXPEDITED PROCEDURE," and informal or draft communications, please label "PROPOSED," or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Ray Persino *RP*

October 15, 2001

Tracy Legree
TRACY LEGREE
PRIMARY EXAMINER